

REMARKS

Objection to the Abstract

The abstract of the disclosure was objected to because the title appeared on top of the page that contained the abstract. A replacement sheet containing the abstract is herein enclosed which corrects the objection. The replacement sheet also corrects a typographical error indicated herein:

“A method and apparatus for validating a vehicle operator. In one embodiment, an apparatus comprises an input device for allowing entry of vehicle operator identification information, a transceiver for transmitting a message and receiving a response to the message, an interface for allowing a processor to communicate ~~communication~~ with a vehicle sub-system, and a processor connected to the input device, the transceiver, and the interface, the processor for receiving the vehicle operator identification information from the input device, for generating the message comprising the vehicle operation identification information and providing the message to the transceiver, for receiving the response from the transceiver and for controlling the vehicle sub-system, via the interface, based on the response.”

Double Patenting

Submitted herein is a terminal disclaimer to overcome the provisional rejection based on the nonstatutory double patenting ground.

Joint Inventors

The present application with pending claims 20-55 lists as inventors John Harvey, Thomas F. Doyle and Michael L. Segal which were listed in the Continuing Patent Application Transmittal dated September 29, 2003.

Claim Rejections

Response to Claim Rejections – 35 USC §103

MPEP §2143.03 All Claim Limitations Must Be Considered

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The rejection of claims 20-55 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,122,580 (Autermann) and U.S. Patent No. 6,232,874 (Murphy) in view of U.S. Patent No. 7,280,970 (Tamir et al.) is respectfully traversed. As stated in the Official Action, page 4, "Autermann does not explicitly disclose a reply message specifying which of said selected functions the operator is validated to operate; and means for enabling said selected functions specified by said reply message."

Murphy too does not teach, suggest or disclose the claim limitation of "receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate." Murphy teaches away from "receiving from said remote location a reply message..." *Emphasis added*. In Murphy, the determination of the identity of the vehicle operator is performed locally from where the information is

inputted, not at a remote location. In Murphy, apparatus 170 comprises both the input devices (BIRAM 177 and TRAM 191) and the controller 179 with memory 180 for determining identity of the vehicle operator in the same apparatus 170. “FIG. 6 schematically illustrates apparatus 170 suitable for practicing the invention....A biometric indicium receiving and analysis mechanism (BIRAM) 177 receives from a vehicle operator or otherwise measures a biometric indicium at one or more selected times. Information obtained by the BIRAM 177 from the biometric indicium presented, if any, is sent to a controller module 179 and associated memory module 180 to determine, where possible, the identity of a vehicle operator who has presented the indicium.” *Murphy, Col 13:29-43. Also see Murphy, Figure 6.* Because Murphy performs the identity determination locally, Murphy teaches away from the claim limitation of “receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate.” *Emphasis added.*

Murphy further teaches away from “receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate.” *Emphasis added.* Instead, in Murphy, “[t]he controller module 179 is also connected to a vehicle interface module 182 that is in turn connected to at least one vehicle component, such as vehicle engine, vehicle transmission system, vehicle fuel supply, vehicle power supply and accessories (considered as part of the vehicle), for use in controlling or restricting operation of the vehicle. The vehicle interface 182 optionally includes one or more interface output terminals 183A, 183B, 183C that connect to the vehicle components to be controlled.” *Murphy, Col 14:1-9.* In Murphy, a reply message from a remote location is not taught since controller module 179 is in turn connected to at least

one vehicle component. Furthermore, the claim limitation of “means for enabling said selected functions specified by said reply message” is not taught in Murphy since Murphy does not teach receiving such said reply message from said remote location.

Tamir also does not teach, suggest or disclose the claim limitations of “receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate; and means for enabling said selected functions specified by said reply message.” Tamir discloses a sonic/ultrasonic authentication device and explicitly teaches away from receiving a reply message from a remote location. “Since the user device performing the operation required for user verification, there is no need in transmission of user information, and there is no need in storing same information on a remote site (e.g., Internet server), where it may be exposed by hackers and/or eavesdroppers. Moreover, the authentication process is substantially faster than in methods where authentication is performed in a remote site, wherein the speed of the authentication depends on many variable parameters, such as communication speed, band-width, and reliability.” *Tamir, Col 12:44-53. Emphasis added.*

In view of the foregoing, it is submitted that independent claims 20, 32 and 44 are patentably distinguishable over any combination of Autermann and Murphy in view of Tamir et al. The dependent claims contain the above discussed limitations and merely recite limitations in addition thereon. For this reason, they are submitted as being likewise patentably distinguishable over the cited art of Autermann and Murphy in view of Tamir et al.

CONCLUSION

For the reasons stated above, the prior art references cited by the Examiner do not teach, suggest or make obvious the pending claims 20-55. Thus, Applicants respectfully request withdrawal of the 35 U.S.C. 103 rejections based thereon.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Please charge Deposit Account No. 17-0026 for any fees associated with the Petition for a Three-Month Extension of Time. Applicants do not believe any other fees are due regarding this amendment. If any other extension of time fees or any other fees are required, however, please charge Deposit Account No. 17-0026. Applicants encourage the Examiner to telephone the Applicants' attorney should any issues remain.

Respectfully submitted,

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